

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LUKE J. SOULE,

Plaintiff,

v.

M. POTTS, F. MACKINNON, L.C. WARD,
SARA M. REVELL, and THOMAS R. KANE,

Defendants.

ORDER

16-cv-100-jdp
Appeal No. 16-3072

The court entered judgment in this case on July 13, 2016, after I dismissed the case for plaintiff Luke J. Soule's failure to state a claim upon which relief can be granted. Dkt. 10 and Dkt. 11. Now plaintiff has filed a notice of appeal and requests leave to proceed *in forma pauperis*. Dkt. 12 and Dkt. 17. I will grant his request.

Because plaintiff is incarcerated, his case is governed by the Prison Litigation Reform Act (PLRA), 28 U.S.C. § 1915(b), which requires indigent inmates to pay by installment the entire filing fee for civil actions and appeals. Plaintiff has supplied an inmate trust fund account statement so that the court may determine whether he is indigent and, if so, what amount must be assessed as an initial partial payment of the fee for his appeal. The court must also certify whether an appeal is "not taken in good faith" or whether the party is "not otherwise entitled to proceed" as an indigent litigant for purposes of Fed. R. App. P. 24(a)(3). *See* 28 U.S.C. § 1915(a)(3) ("An appeal may not be taken *in forma pauperis* if the court certifies in writing that it is not taken in good faith.").

From the financial information that plaintiff has provided, the court finds that he lacks sufficient means to prepay the entire \$505 appellate docketing fee. Because it does not

appear that plaintiff has filed his appeal in bad faith or that Fed. R. App. P. 24(a) otherwise precludes pauper status, I will grant his motion for leave to proceed *in forma pauperis*.

Although plaintiff is eligible to proceed *in forma pauperis*, the PLRA requires indigent inmates to submit an initial partial payment pursuant to the formula found in 28 U.S.C. § 1915(b)(1). Based on his inmate trust fund account statement, the court finds that plaintiff is able to make an initial partial filing fee payment of \$2.00 for his appeal, which will be due no later than September 9, 2016. Plaintiff shall pay the remainder of the \$505 appellate docketing fee in monthly installments according to 28 U.S.C. § 1915(b)(2).

ORDER

IT IS ORDERED that:

1. Plaintiff Luke J. Soule's request for leave to proceed *in forma pauperis* is GRANTED. The court certifies that plaintiff's appeal is not taken in bad faith for purposes of Fed. R. App. P. 24(a)(3).
2. No later than September 9, 2016, plaintiff shall submit a check or money order made payable to the Clerk of Court in the amount of \$2.00 as an initial partial payment of the docketing fee for this appeal. If plaintiff does not have the money to make the initial partial appeal payment from his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account.
3. If plaintiff fails to make his initial partial fee payment as directed by September 9, 2016, the clerk's office will notify the court of appeals so that it may take whatever action it deems appropriate with respect to this appeal.

Entered August 18, 2016.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge